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October 4, 2001

Guy M. Hicks  
General Counsel

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VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Docket to Determine the Compliance of BellSouth  
Telecommunications, Inc.'s Operations Support Systems with State  
and Federal Regulations*  
Docket No. 01-00362

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Response to AT&T Communications of the South Central States, Inc.'s; TCG MidSouth, Inc.'s; and the Southeastern Competitive Carriers Association's List of Persons to be Deposed and Request for Additional Time for Depositions and Motion to Quash. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch  
Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In Re: *Docket to Determine the Compliance of BellSouth Telecommunications, Inc.'s Operations Support Systems with State and Federal Regulations*

Docket No. 01-00362

**BELLSOUTH'S RESPONSE TO AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.; TCG MIDSOUTH, INC.'S; AND THE SOUTHEASTERN COMPETITIVE CARRIERS ASSOCIATION'S LIST OF PERSONS TO BE DEPOSED AND REQUEST FOR ADDITIONAL TIME FOR DEPOSITIONS AND MOTION TO QUASH**

BellSouth Telecommunications, Inc. ("BellSouth") hereby opposes the List of Persons to Be Deposed filed by AT&T Communications of the South Central States, Inc., TCG MidSouth, Inc. and the Southeastern Competitive Carriers Association ("AT&T") and states as follows:

AT&T has noticed over **40 depositions** in this case. BellSouth objects to all of these depositions, and moves the Authority to quash AT&T's notice. AT&T's position in this case, specifically that it has been denied the opportunity for adequate discovery in other states, is not true.<sup>1</sup> A brief description of the discovery that has occurred in related cases demonstrates the ludicrous and false nature of AT&T's position.

The discovery process related to the Georgia Test and BellSouth's compliance with Section 271 started in the Spring of 2001 in Georgia. In the

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<sup>1</sup> In its *Motion to Establish a Protective Order*, AT&T states: "CLECs have thus far been permitted only limited discovery by which to evaluate the completeness and reliability of the third-party tests and to investigate state-specific differences in BellSouth's OSS."

context of the Georgia Third Party Test proceeding, AT&T conducted extensive discovery of BellSouth and KPMG about the test. AT&T deposed four of KPMG's key consultants and managers who personally conducted the audit performed in Georgia. In addition, KPMG produced to AT&T approximately 16 boxes of documents related to the Georgia test. BellSouth also produced numerous boxes of documents on the test to AT&T. Finally, the Georgia Commission conducted a one-day hearing on the test at which AT&T had the opportunity to ask the KPMG representatives any questions it wanted about the test. The Georgia Commission made it clear that the hearing would continue as late into the night as the CLECs wanted to ask questions - AT&T, however, announced it had no more questions at 4 in the afternoon.

Moreover, in addition to the extensive discovery that AT&T took, there is an enormous amount of public information about the test. There is a 2000-page Final Test Report, and extensive Master Test Plan and Supplemental Test Plan, public Exception Reports, and Exception Closure Reports. AT&T also had the opportunity to participate in weekly conference calls conducted by KPMG on the Georgia Third Party Test since January 2000. Thus, AT&T had over a year to obtain information on the Third Party Test directly from KPMG.

The falsity of AT&T's position is further demonstrated by the extensive discovery on-going in North Carolina. In the North Carolina 271 Proceeding, AT&T has conducted extensive and wide-reaching discovery. It would be the grossest of understatements to observe that AT&T has taken full advantage of the discovery

rights afforded it by the North Carolina Procedural Order. AT&T has served BellSouth with over **160** data requests, approximately **65** requests for production of documents, and has taken or noticed depositions of 16 BellSouth employees (all of whom AT&T wants to **re-depose** in this current Tennessee proceeding). These depositions have extended over a three and a half week period, and have taken up large portions of almost every one of those days. In addition, AT&T has served written discovery on non-parties KPMG Consulting, Inc., PriceWaterhouseCoopers and Hewlett Packard. Further, AT&T has noticed or taken the depositions of **six** KPMG employees/consultants on the issue of its third party testing in Georgia (one of whom is in China) and BellSouth understands that KPMG has agreed to produce two more witnesses for cross-examination during the October 29 North Carolina hearing.

AT&T's position before this Authority is further undermined by the fact that in both the Georgia and North Carolina proceedings described above, the parties agreed that the discovery conducted in those proceedings could be used in other states. In addition, in North Carolina, BellSouth and AT&T **agreed** that discovery conducted in North Carolina would not be repeated in other states.<sup>2</sup> Rather than abide by these practices and agreements, AT&T simply is trying to get another bite at the apple. AT&T's notice of **more than 40** deponents is not based on a

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<sup>2</sup> The parties agreed as follows: "In exchange for BellSouth's agreement to stipulate to the admission of its discovery requests in any of the nine states in BellSouth's region, AT&T agreed not to serve identical discovery requests in all nine states. AT&T and BellSouth agreed that AT&T will serve specific discovery requests it deems appropriate in specific states." See Letter from Tracy Vanek to Lisa Foshee, 8/10/01, at 2.

legitimate and well-founded need for discovery; rather, it is nothing more than an attempt to tie up BellSouth's personnel and resources in the hopes that this will jeopardize BellSouth's ability to prosecute its pending applications in other regulatory forums.

The harassing nature of AT&T's discovery requests is made clear by AT&T's own words. In AT&T's *Motion to Establish Protective Order*, AT&T explicitly recognizes, and in fact argues for, the ability to use discovery conducted in one state in other proceedings. This position is the precise opposite of what it is seeking in this motion – namely the ability to depose the same people, and serve the same discovery requests in as many forums as it is permitted to do so. AT&T is the proverbial greedy child – it wants the ability to use the discovery it takes here in other states, but it does not want any restrictions placed on it as to how many times it can conduct the same discovery. AT&T's position is ludicrous.

In an effort to resolve this dispute, counsel for BellSouth called Sylvia Anderson, counsel for AT&T. AT&T's position, as relayed by its other counsel Virginia Tate, is that AT&T needs to retake the depositions of BellSouth's personnel because there were certain "restrictions" placed on the scope of the BellSouth depositions in North Carolina. This, too, is utterly and completely not true. BellSouth made its personnel available for as long as AT&T wanted to ask questions, and for any subject matter of which the witness had knowledge. To counsel for BellSouth's knowledge, the deposition of Victor Weakling was the only deposition in which AT&T asked any NC-specific questions. Every other deposition

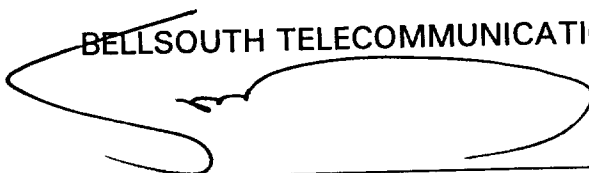
focused on matters of region-wide applicability and topics. AT&T had the opportunity to ask any questions it wanted to ask, including questions about regionality, TN systems and processes, and the third party tests. For AT&T to take the position that it was "restricted" is totally without merit.

In conclusion, BellSouth moves the Authority to quash AT&T's Notice of Depositions and enter an order denying AT&T the right to conduct any depositions in this proceeding.

As BellSouth has alluded to in earlier filings, BellSouth will be unable to prosecute its pending applications in other regulatory forums and engage in and complete the discovery depositions that AT&T is seeking in time to conduct the currently scheduled hearing during the week of December 5, 2001. Thus, as a practical matter, allowing these depositions would make it impossible to proceed with the hearing as currently scheduled.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

A large, stylized handwritten signature in black ink, appearing to read 'Guy Hicks', is written over a horizontal line.

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## CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2001, a copy of the foregoing document was served on counsel for known parties, via the method indicated, addressed as follows:

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